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COMMUNICATIONS AND RECORDS
TELEGRAPH BRANCH

DEPARTMENT OF STATE

OUTGOING TELEGRAM

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Origin: ITP

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AMEMBASSY,

ROME

2091

FOR DURN AND SETSER



Control 3816

October 16, 1947
6 p.m.

Ref Embtel 3118, Oct 8, Art I, para 4. Dept sees two

objections translation procedure proposed by Itals. Firstly, would entail what might appear calculated and irregular discrepancy Ital and English texts, from which would be inferred official interpretation that QUOTE immigration UNQUOTE is exact synonym of entry and of sojourn as well.

Secondly, would appear create significant dilution substance treaty, to possible disadvantage Itals as well as Americans.

Unqualified reservation entry and sojourn (QUOTE entra soggiorno UNQUOTE URTEL) would expressly nullify rule para one concerning entry, travel and residence, and thus

further belaud potential effectiveness various establishment provisions.

Present immigration proviso, while extensive, is considerably less extreme than Ital proposal. Actually US statutes relating immig allow considerable range alien entry for one purpose or other, and continuation such provisions presumed likely. In any case, immig proviso not intended generally burden right travel and residence in country.

You authorized proceed on basis formulation additional

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REVIEWED BY L.M. Durn DATE 1/25/83

RDS of XDS EXT. DATE

TS AUTH. REASON(S)

ENDORSE EXISTING MARKINGS

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RELEASE DENIED

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-2-, #2091 to Rome, Oct. 16, 1947, 6 p.m.
para. Following suggested: QUOTE Provisions of para 1,
Art I, shall not be construed to preclude the exercise by
either ROP of reasonable surveillance over the movement
and sojourn of aliens within its territories or the enforce-
ment of measures for the exclusion or expulsion of aliens
for reasons of public order, morals, health or safety. UNQUOTE

This provision may be handled in either of three ways,
depending upon Emb's judgment as to which is most expedient.
These are: first, addition to protocol; second, addition
to end para 1, Art I (with appropriate introductory change);
third, the following: Transfer entire present immigration proviso
(present para 4, Art I) to general exceptions art (Art XXIV),
as penultimate or final para thereof. Put new provision
in vacancy thus left, as new para 4, Art I. In such case,
words QUOTE Article I UNQUOTE therein would be replaced by
QUOTE of this Article UNQUOTE, and phrase QUOTE subject pro-
visions para 4 this Article UNQUOTE would be stricken from
para 1.

and third

The second/alternatives offers ~~the~~ possible advantage/
placing
~~and the third alternative would place first in sequence~~
the more limited reservation, which interests both Govts
equally; and ~~and~~ later would occur more sweeping reservation
which primarily interests US. ~~Not before international treaty~~

Third ~~Secondly~~ ~~First~~
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Secondly, immig proviso becomes less conspicuous thus relieving possibly unduly harsh appearance beginning treaty. Heretofore traditional immig laws proviso carried in first Art mainly in interests candor.

Ref Embtel 3003, Sept 30, Art XII. Authorized offer inclusion following provision as second para Art XII, concurrently identifying present material therein as para 1: QUOTE 2. In addition to the rights and privileges provided in paragraph 1 of this Article, the nationals of either High Contracting Party shall, within the territories of the other High Contracting Party, be accorded, upon terms no less favorable than those applicable to nationals of such other High Contracting Party, the benefits of laws and regulations establishing systems of compulsory insurance, under which benefits are paid without an individual test of financial need: (a) against loss of wages or earnings due to old age, unemployment or sickness or other disability, or (b) against loss of financial support due to the death of father, husband or other person on whom such support had depended. UNQUOTE

This believed first time US has contemplated inclusion such provision in FCH treaty, and perhaps any treaty. Hence necessary proceed cautiously, and limit coverage to two types

benefits

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-4- #2091 to Rome, Oct. 16⁴, 1947, 6 p.m.
benefits (unemployment and old age and survivors insurance)
where fedgovt plays especially important role and dis-
crimination presently absent. Falls cover other existent
or potential social security benefits (such as aid to blind
or old age assistance involving means test), where states
now play relatively larger if not preponderant role and
some pattern discrimination exists. Scope and ~~mechanics~~ mechanics
Ital request unclear but Dept trusts offer satisfactory.

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OCTOBER 17, 1947

SUMMARY MINUTES

Eleventh Meeting in Negotiations Between the United States and Italian Delegations for a Treaty of Friendship, Commerce and Navigation

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Approved:

W. Walmsley
Ray

Participants:

For the United States: Messrs. Walmsley, Ainsworth, Setser.

For Italy: Mr. Lombardo, President; Messrs. Trinchieri, Pennetta, Campailla, La Rosa, Ippolito, De Rossi, Maresca, De Vera, Cattani, Sensi, Melano.

Time: 10:30, October 17, 1947.

Place: Palazzo Chigi.

Article III

The American delegation referred to the desire expressed by the Italian delegation during the earlier discussion of this Article to receive information as to whether the present laws and regulations of the States of New York, Massachusetts, Pennsylvania and Illinois would permit the reestablishment of the subsidiaries of Italian banking companies which were established in those States before the recent war. The American delegation made the following statement on this subject:

The Department of State has consulted the banking commissioners of the States of New York, Illinois, Pennsylvania and Massachusetts and has been informed that the laws and regulations regarding the chartering of subsidiaries of foreign banking companies in those States remain unchanged. The replies indicate that Italians have legal opportunity in each State to establish new

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banking subsidiaries such as existed before the war, and that, in general, applications from Italian companies would receive equal consideration to that given to American companies seeking permission to set up new establishments. This statement is not to be interpreted as a definite commitment to issue charters to any particular Italian banking companies, however, since the laws give the banking commissioners authority to examine each application on its merits, and consideration is given to such matters as the established need for new banking facilities.

The Italian delegation said that it would give this statement consideration and inform the American delegation of the Italian Government's reaction at a later meeting.

Article V

Paragraph 4. The American delegation stated that it was authorized to agree to the Italian proposal to delete the word "interpreters" in this paragraph.

The two delegations agreed that the use of the term "representatives" could reasonably be interpreted to permit the parties to a suit freely to bring into court their own interpreters to assist them and their counsel in the proceedings.

Article VII

The American delegation stated that it had been authorized to submit for the consideration of the Italian delegation the following amended version of sub-paragraph (b) of the alternative paragraph 1 which had been offered for consideration at the meeting of October 2:

"(b) In the case of nationals, corporations and associations of the United States of America, the right to acquire, own and dispose of such property and interests shall be upon terms no less favorable than those which are or may hereafter be accorded by the state, territory, or possession of the United States of America in which such national is domiciled or under the laws of which such corporation or association is created or organized, to nationals, corporations and associations of the Italian Republic; provided that the Italian Republic shall not be obligated to accord to nationals, corporations and associations of the United States of America rights in this connection more extensive than those which are or may hereafter be accorded within the

territories

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territories of such Republic to nationals, corporations and associations of such Republic."

The American negotiators pointed out that this new version was a restatement of the first alternative submitted by the Italian delegation October 6. They said that the restatement was considered necessary for the following reasons:

(1) The Italian delegation, as indicated in the draft of alternative No. 1, may have thought that American state laws discriminated against residents and corporations of other states with regard to rights to own land, whereas the distinction in treatment is in fact one between nationals and aliens;

(2) The Italian alternative would make it possible for United States nationals to receive in Italy more favorable treatment than Italian nationals in case the Italian Government should at some future time find it desirable to impose restrictions upon the ownership of immovables by Italian nationals.

The Italian delegation stated that it would make a study of the new draft and discuss it at a later meeting.

Article XI

Paragraph 2. Referring to the statement previously made by the Italian delegation that it wished to make some provision that "freedom of transmission of material to be used abroad" should not extend to the transmission of secret military information, the American delegation stated that the position of their Government was that there was no intent to suggest freedom to transmit military secrets, and that no provision of the sort suggested by the Italian delegation was necessary.

The Italian delegation stated, however, that they would prefer that some formal statement on the subject be placed on record. The American delegation then stated that it had been authorized to add the following provision to the Protocol:

The provisions of paragraph 2, Article II, shall not be construed to affect measures taken by either High Contracting Party to safeguard military secrets.

The Italian delegation stated that this provision was satisfactory to them.

Recognition

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Recognition of Academic Degrees

The American negotiators referred to the discussion of this subject at previous meetings, and stated that they had received instructions setting forth the position of their Government with regard to the proposal of the Italian Government that the two countries agreed to enter into negotiations for the conclusion of a convention for the mutual recognition of professional degrees. They stated that this position could be summarized as follows:

The American Government regrets that the statement made at Washington during the preliminary discussions regarding the commercial treaty should have misled the Italian delegation as to the ability of the United States to regulate by treaty the issuance or recognition of professional degrees and certificates. Extensive investigations made subsequently to the receipt of the Italian delegation's proposal have confirmed the statements made by the American delegation at the meeting of September 18. In the United States, the evaluation of student credentials, the accrediting of educational institutions and the granting or recognition of licenses to practice professions are under the control of private educational institutions, private professional organizations or State authorities. Individual educational institutions are free to evaluate the credentials of any student, domestic or foreign, wishing to attend such institutions, and neither the Federal Government nor the States have any control over such evaluations. The accrediting of educational institutions is performed by private accrediting agencies. Domestic or foreign institutions which fail to meet standards required by appropriate accrediting agencies are not certified, or may have certification withdrawn, and neither the Federal or State Governments can prevent such action.

The United States Government has long been interested, however, in fair evaluation of the credentials of foreign students, and as evidence of this interest has long rendered an evaluation service through the Office of Education of the Department of the Interior to such students, to educational institutions and to the examination and certification officers of the State in which the foreigner wishes to practice his profession. The institutions are free, however, to alter such evaluations.

The United States Government appreciates the interest of the Italian Government in furthering cultural relations between the two countries and proposes

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as a substitute for the Italian suggestion an exchange of notes at the time of the signature of the treaty, the substance of which should be along the following lines:

"In recognition of the importance of cultural relations between nations as a device to increase understanding and friendship, the High Contracting Parties declare it to be their policy to stimulate and to increase the interchange of professors, students, professional and academic personnel between the two countries. The High Contracting Parties agree to discuss at a later time the possibility of a separate agreement designed to establish arrangements whereby such interchange may be facilitated and generally to strengthen the cultural ties between the two nations."

The Italian delegation stated that it would give consideration to this matter, and inform the American negotiators of their reactions at a later meeting.

The Italian negotiators inquired whether this statement should be considered in answer to the proposal which they had made on October 10: that if the American Government could not agree to a convention such as the Italian Government proposed, it might nevertheless assist in concluding and might recognize agreements reached between the Italian Government and individual American educational institutions. The American negotiators said that the views of their Government on that proposal had not yet been received, but that they felt that some of the difficulties which would prevent a conventional arrangement would also operate against the conclusion of agreements with individual institutions.

Article XIII

The American delegation referred to the position taken by the Italian delegation in previous discussions that the language of paragraph 1 should be amended to make it clear that training service in all arms, including air service, are covered by the provisions, and stated that they were authorized to agree to the amendment of paragraphs 1 and 2 as follows:

"1. The nationals of each High Contracting Party shall be exempt, except as otherwise provided in paragraph 2 of this article, from compulsory training for service in the armed forces of the other High Contracting Party, and shall also be exempt from all contributions in money or in kind imposed in lieu thereof.

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"2. During any period of time when both of the High Contracting Parties are, through armed action in connection with which there is general compulsory service, (a) enforcing measures against the same third country or countries in pursuance of obligations for the maintenance of international peace and security, or (b) concurrently conducting hostilities against the same third country or countries, the exemptions provided in paragraph 1 of this Article shall not apply. However, in such an event the nationals of either High Contracting Party in the territories of the other High Contracting Party, who have not declared their intention to acquire the nationality of such other High Contracting Party, shall be exempt from service in the armed forces of such other High Contracting Party if within a reasonable time prior to their induction for service they elect, in lieu of such service, to enter the armed forces of the High Contracting Party of which they are nationals. In any such situation the High Contracting Parties will make the necessary arrangements for giving effect to the provisions of this paragraph."

In reply to an inquiry of the Italian delegation, the American negotiators stated that they had not yet been informed of the position of their Government with respect to the Italian objections to the provision of paragraph 2 regarding the period in which aliens might exercise an option as to which country's forces they should enter.

The American negotiators explained that the changes proposed at this time in paragraph 2 were considered necessary to make the language consistent with the amendment which the Italian delegation had proposed in paragraph 1, which was acceptable to the American Government.

Article XVIII

The American delegation stated that it had been instructed to propose the deletion of the present text of paragraph 3, and its replacement with the following:

"The two High Contracting Parties agree that business practices which restrain competition, limit access to markets or foster monopolistic control, and which are engaged in or made effective by one or more private or public commercial enterprises or by combination, agreement, or other arrangement among public or private commercial enterprises, may have harmful effects upon the

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commerce between their respective territories. Accordingly, each High Contracting Party agrees upon the request of the other High Contracting Party to consult with respect to any such practices and to take such measures as it deems appropriate with a view to eliminating such harmful effects."

The American negotiators stated that although the original text had been agreed to by the Italian delegation, the United States Government considers the new text more appropriate for inclusion in a bilateral commercial treaty.

The Italian negotiators stated that they would study the new text and discuss it further at a future meeting.

Article XXIII

The American delegation stated that it had been authorized to agree to the Italian proposal that the first sentence of this Article be amended so as to permit special controls over transit of stateless persons. The sentence as amended follows:

"There shall be freedom of transit through the territories of each High Contracting Party by the routes most convenient for international transit (a) for persons who are nationals of any third country, together with their baggage, directly or indirectly coming from or going to the territories of the other High Contracting Party, and (c) for articles directly or indirectly coming from or going to the territories of the other High Contracting Party."

The American delegation stated that its Government, in agreeing to this proposal of the Italian delegation, wished it to be clearly understood that it does so without prejudice to the interest of the United States in fair and humane treatment for stateless persons including transit privileges for those legitimately on route to the United States.

The Italian delegation stated that this amendment and the explanations were acceptable to them.

Article XXIV

Paragraph 1. The American delegation stated that it was authorized to agree to the Italian proposal to amend sub-paragraph (d) of paragraph 1 as follows:

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(d) advantages now accorded or which may hereafter be accorded by the Italian Republic to San Marino, to the Free Territory of Trieste or to the State of Vatican City, or by the United States of America or its territories or possessions to one another, to the Panama Canal Zone, to the Republic of Cuba or to the Republic of the Philippines.

The Italian delegation stated that this was in accord with their proposal and acceptable to them.

Paragraph 1. The American delegation stated that their Government was prepared to agree to the Italian proposal that an exception be included in paragraph 1 for measures taken with regard to the exportation of objects of special historic, artistic, or archaeological value, and have instructed them to submit for consideration the following as a new subparagraph: "relating to the exportation of national treasures of historical, archaeological or artistic value." The American negotiators proposed that this be added as subparagraph (b) and that the other clauses in the paragraph after (a) receive new letter designations accordingly.

The Italian delegation stated that the new subparagraph was generally acceptable except that they felt that the word "treasures", when translated into Italian, would limit the coverage of the provision to objects of the highest value. The American negotiators stated that the word had been used in a number of their treaties and agreements, that it was included in the proposed ITO Charter, and that they believed some such restrictive language was necessary in order to prevent the extension of the exception to cover objects of a commercial character.

Paragraph 3. Referring to the proposal made previously by the Italian delegation that a provision be inserted in this paragraph excepting from the rule of most-favored-nation treatment advantages which Italy might accord to colonies or to territories in which a special Italian interest might be recognized by international agreement, the American negotiators stated that they had received instructions further setting forth the position of their Government on this subject. They said that this position could be summarized as follows:

1. In view of the fact that the ultimate administration and status of the colonies are still undecided, it would be improper for the United States to take action possibly prejudicial to future international action as to their international trade relations;

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2. The recognition of the possibility of preferences for the Italian colonies by inserting the proposed provision in the commercial treaty does not appear justifiable as being necessary for practical, economic, or legal reasons;

3. The acceptance of the Italian proposal would contradict the larger United States policy seeking the elimination of trade preferences;

The Italian delegation stated that it would take these views into consideration and would be prepared to discuss the matter further at a future meeting.

Paragraph 3b. The American delegation referred to the objection which the Italian delegation had made to the use of the word "consultation" in this subparagraph, and said that their Government had instructed them to state that the term "consultation" had become fairly standard in similar provisions in bilateral treaties, that it had been used in the proposed ITO charter, and that it does not imply at all that the right of one party to join a genuine customs union would be contingent upon the prior consent of the other party.

The Italian delegation stated that this explanation was satisfactory, and that they had no further objections to the subparagraph.

Article XXVII

The American delegation stated that it was authorized to agree to the deletion of Article XXVII referring to the treaty of peace, and to renumber the following article accordingly.

The Italian delegation stated that this amendment was in accord with their views and satisfactory to them.

Final Clauses

The American delegation stated that it had been authorized to agree to the Italian proposal to include a provision that the English and Italian versions of the treaty should be equally authentic, and to propose the following amended clause:

Done in duplicate, in the English and Italian languages, both equally authentic, at Rome, this day of _____ one thousand nine hundred forty seven.

The Italian delegation stated that this amended clause was satisfactory.

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